

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

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| MARIA MONTIJO | § | |
| VS. | § | CIVIL ACTION NO. 1:22-CV-195 |
| WARDEN DOBBS, ET AL. | § | |

ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Maria Montijo, proceeding *pro se*, filed this civil rights action pursuant to *Bivens* v. *Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), against Warden Dobbs, Captain Buckle, Officer Guidry, and Officer Johnson.

The Court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The magistrate judge recommends dismissing the action without prejudice pursuant to Federal Rule of Civil Procedure 4(m).

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and the pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation.

The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration of all the pleadings and the relevant case law, the Court concludes that Plaintiff's objections lack merit.

Plaintiff paid the filing fee. On September 30, 2022, Plaintiff was issued summonses to serve the defendants. Nearly eleven months have passed since Plaintiff was provided with summonses.

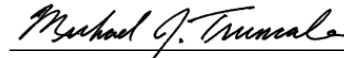
but she has failed to effect service. As a result, the magistrate judge recommended dismissing the action pursuant to Federal Rule of Civil Procedure 4. In her objections, Plaintiff states that she does not know how to serve the defendants, and she requests the court to appoint counsel to assist her. First, Plaintiff's *pro se* status does not excuse her failure to serve the defendants. *Lindsey v. U.S. R.R. Ret. Bd.*, 101 F.3d 444, 446 (5th Cir. 1996) (holding that ignorance of the rules is generally not sufficient to establish good cause). Second, the Court has reviewed Plaintiff's motions for appointment of counsel and, for the reasons stated by the magistrate judge, the Court concludes that appointment of counsel is not warranted in this case.

Plaintiff has failed to show good cause for serving the defendants. Therefore, the action should be dismissed pursuant to Rule 4. Nevertheless, the Court will reinstate this action if Plaintiff provides proof of service within thirty days after the judgment is entered.

ORDER

Accordingly, Plaintiff's objections [Dkt. 23] are OVERRULED. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge [Dkt. 21] is ADOPTED. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED this 17th day of August, 2023.



Michael J. Truncala
United States District Judge